

CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE
Meeting Minutes from May 12, 2003
Torrance, CA

Members/Alternates Attending:

Jerry Gonce, Chair
Scott Beylik
Mary Lou Weiss
Richard Youngblood
Scott Hudson
Jim Russell
Edith Clark
Fred Kosmo
Gail Hayden
Joel Kiff
Harry Brown-Hiegel
Greta Dunlap
Howell Tumlin
Earl McPhail

CDFA Representatives:

Janice Price

Interested Parties

Dave Kruger
Kerry L. DuFrain
Mona Amoon
Laura Avery
Charlotte Eaton
Kurt Floren
Gretchen Sterling
Dale Whitney
Stacy Brown
Ia'auliulito H. Meni
Pompea Smith

Non-Voting Members/Alternates Attending:

Doug Hayden
Gale Cunningham
Phil McGrath

Members/Alternates Excused Absence:

Karol Jo Kappel
Terence Faulkner
Theodore Loewen
Lynn Bagley
Gene Etheridge

ITEM 1: ROLL CALL

Jerry Gonce called the meeting to order and Mary Lou Weiss led the pledge of allegiance to the flag. Jerry called roll and a quorum was established.

ITEM 2: INTRODUCTION OF GUESTS

Introductions were made.

ITEM 3: APPROVAL OF MARCH 10, 2003, MEETING MINUTES

MOTION: Gail Hayden moved to approve the minutes as corrected. Joel Kiff seconded. The motion passed unanimously.

ITEM 4: APPROVAL OF AGENDA

MOTION: Edith Clark moved to approve the agenda. Scott Hudson seconded. The motion passed unanimously.

ITEM 5: CORRESPONDANCE

No discussion.

- a. **CFMAC Letter to Secretary – Nursery Stock Requirements**
- b. **CFMAC Letter to Secretary – Emergency Relief Regulation Support**
- c. **CFMAC Letter to Dan Best – Load Lists**

ITEM 6: REPORTS

Jerry Gonce announced that as of this meeting and all future meetings, Items 6 a-d (CDFA Reports) would be discussed only if there are questions from the Committee.

a. CFMAC Reappointments – Janice Price

Janice Price welcomed Joel Kiff as the newly appointed certified producer alternate member and asked that he give the Committee some background information. Joel introduced himself as a grower of 25 years from the Healdsburg area. Janice also announced Gene Etheridge was appointed in the certified producer member position. Gene is from the Tulare area, grows stone fruit and specialty items, and participates in at least 1 certified farmers' market.

b. CFMAC Member Vacancies

Janice Price announced to the Committee the position vacated by Mark Sheridan for an alternate Major CFM Representative remains vacant.

c. CFM Remittance Fee Report: 2nd and 3rd Quarters, 2002

Jerry Gonce asked the Committee if they had any questions regarding either report. There were no questions.

d. CDFA Budget Reports: December 2002 and January 2003

Jerry Gonce asked the Committee if they had any questions regarding either report. There were no questions.

e. Emergency Relief Regulation Update

Janice Price reported the Emergency Relief Regulation is currently at the Office of Administrative Law (OAL) for review. The Emergency Regulation expired April 24, 2003. OAL has 30 working days to review and approve or disapprove the request to permanently adopt the regulation. The review period will end on May 27, 2003. The Department anticipates no problems at this time. As of today, there has been one request for a compliance agreement waiver.

Howell Tumlin asked Janice to explain how the Department handles requests from individuals pertaining to regulation changes, particularly the Committee's request to change the current proposed Emergency Relief regulation text and does the Department inform these individuals of its decision. Janice explained that when the Department receives a request to modify or change the initial proposed regulation text, it must first determine if the change is considered substantive or nonsubstantive. CDFA's Legal Office determined that the request did not change the original intent of the regulation therefore, was nonsubstantive and did not require a 15-day notice. The Department has no legal obligation to notify individuals of its decision.

However, the Department is mandated by law to provide a copy of all documents pertaining to the proposed regulation changes upon request. This information is included in the Notice of Proposed Regulation Change that is sent to the industry in the beginning of the regulation process. As part of the process, in the beginning of a proposed regulation change, the Department provides an Initial Statement of Reasons (ISR), which describes the proposed regulation, the issues that are being addressed, any current regulations if applicable and the desired outcome. This document is part of a packet that is submitted to OAL. After the 45-day comment period ends, the Department must submit an updated version of the ISR called the Final Statement of Reasons (FSR). The FSR must address all comments or requests for changes received during the comment period with detailed explanations on any decisions made by the Department.

MOTION: Jim Russell made a motion to have Janice Price provide the Committee members with a copy of the Initial Statement of Reasons and the Final Statement of Reasons for the Emergency Relief Regulation. Edith Clark seconded. Motion passed unanimously.

f. CDFA Task Report

Janice Price asked if there were any questions pertaining to the Task Reports. There were no questions.

g. Agricultural Commissioners

Scott Hudson reported the CACASA Conference is scheduled for May 19, 3:30 p.m. at the Embassy Suites in South Lake Tahoe. Jerry Gonce is on the agenda to discuss nursery stock de-certification as requested by the Committee at the last meeting.

Janice Price will be speaking on Direct Marketing issues, specifically, market operation and certification issues. Janice will also provide an update on the Emergency Relief Regulation as well as an update on AB 1726 and SB 934.

Jerry Gonce asked the Committee members to provide him with their comments pertaining to the nursery stock issue by Thursday, May 15 for discussion at the upcoming CACASA Conference.

h. Long Range Planning Sub-Committee

Greta Dunlap reported during the sub-committee's last teleconference meeting, the surveys were finalized for the Committee's final approval. The industry surveys are scheduled to be mailed on May 24, 2003 along with a letter from the Chair, Jerry Gonce.

i. Finance Sub-Committee

No Report.

j. Nursery Stock Sub-Committee

No Report.

k. Market Manager Certification Sub-Committee

No report.

Jim Russell asked if there is any kind of a manual providing a market manager with guidelines on running a certified farmers' market. Janice Price commented when information is requested on starting a certified farmers' market, she provides a packet of information which includes an updated copy of the 1988 "Organizing a Certified Farmers' Market". This packet also includes a current list of the Committee members and CFM Associations as well as a frequently asked questions insert. Janice also commented the sub-committee held a teleconference last year, and at that time each sub-committee member was provided with a copy of the packet just mentioned.

Howell Tumlin reminded the Committee they discussed forming a sub-committee to create standards for operating a market and how this information would be disseminated. Jerry Gonce stated it might be appropriate to combine standards for markets and market manager certification into one sub-committee. The Committee agreed.

MOTION: Jim Russell moved to have a copy of the informational packet discussed mailed to each Committee member for review and updated by the end of this year.

Mary Lou Weiss commented the packet of information is rather large and would be very costly to produce and mail. Jim withdrew his motion.

MOTION: Jim Russell moved to combine the standards for certified farmers' markets and market managers into one sub-committee and this sub-committee will provide a draft of proposed standards by the September 2003 Committee meeting for review. Mary Lou Weiss seconded. Motion passed unanimously.

l. Matrix Sub-Committee

Scott Hudson reported the civil penalty matrix is complete. Jim Russell commented intermingling certified producers and non-agricultural products is addressed in the Direct Marketing regulations but not in the matrix. Jim suggested it be added to the matrix as a market violation. Kurt Florin pointed out this issue falls under Item 2, Section 2 of the matrix. Scott Hudson agreed to look into the issue further.

m. Data Base Sub-Committee

No Report

n. Enforcement Sub-Committee

No Report.

ITEM 7: COMMITTEE BUSINESS:

a. Recommendations – Long Range Planning Sub-Committee – Greta Dunlap

(1) Certified Producer's Survey

(2) Market Manager's Survey

(3) Agricultural Commissioner's Survey

(4) Survey Cover Letter

Howell Tumlin asked how the sub-committee plans to quantify the results of the open-ended questions. He suggested multiple choice might be a better approach, such as the options of very important, important or not important.

Gail Hayden suggested the use of a scale from 1 to 5. Gail also commented the surveys should be more appealing and contain information on how long the survey will take to complete and why it is important to respond. Gail is also concerned about the surveys going out during the peak growing season and commented it might be better to send them out at a different time, perhaps September or February. Gail also brought up her suggestion from the last meeting to have the surveys sent out by a nongovernmental agency.

Janice Price explained the date of May 23 was selected in an effort to reduce mailing costs. The Department will be sending the industry notification concerning the effective date for the Direct Marketing regulation and the surveys were to be included.

Jerry Gonce commented at the last Federation meeting, there were a number of individuals who expressed a lot of questions and concerns about the Committee and its purpose, such as how members are appointed and the requirements for appointment.

MOTION: Howell Tumlin moved to have the issues of when and how the surveys would be mailed out to the industry go back to the sub-committee for discussion and solutions be brought to the Committee for review at the next meeting. Joel Kiff seconded. Motion passed.

The Committee reviewed each of the surveys. Greta Dunlap will take the Committee's concerns and requests for changes back to the sub-committee for discussion. The surveys will be resubmitted to the full Committee for approval at a later time.

b. Definition – Certified Producer as CFM Operator – Mary Hillebrecht

Deferred to next meeting.

c. Southland Proposal - Definition of CFM – Howell Tumlin

Howell Tumlin reported at the last meeting, he introduced a proposal from Southland. After discussing the proposal, the Committee asked Howell to take their concerns back to Southland for further discussion and come up with some alternatives. Southland has proposed 6 options on how the original proposal could be modified so all concerns addressed by the Committee at the last meeting are covered.

Howell explained option 1 deals with the question pertaining to limiting non-agricultural products within a certified farmers' market to 25% as a minimum standard. The Committee expressed concern that this percentage would be impossible for some of the northern California markets to achieve year round. Southland's proposed solution is to limit the 25% to the busiest months from May 1 to October 31.

Gail Hayden commented the 25% should not include value added products. The 75% should not be limited to just certified producers, for example, there are producers selling cheese, meat and fish that are not certified. If this is Southland's proposal, she does not support it.

Howell agrees but the definition of value added is unclear. The whole intent behind the Direct Marketing Program is to promote certified producers. They are after all the ones paying the fees.

Janice Price pointed out non-certified product producers are also assessed this fee. Janice went on to say CDFA has no jurisdiction outside of a certified farmers' market designated area. Janice is willing to forward the proposal to the Department's Legal Office for their legal opinion.

Jerry Gonce commented Southland's proposal was discussed at the Federation meeting as an agenda item by Mary Lou Weiss and the Federation did not support the proposal.

Gail Hayden commented that maybe this issue could be resolved through county ordinances. Laura Avery commented that every county has different

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ordinances. We need a clear definition of a certified farmers' market and what is allowed in and around the designated area.

MOTION: Jim Russell motioned to have Janice Price refer Southland's Proposal to the Department's Legal Office to determine the legality of the proposal and to table the discussion until the Committee has received this determination. Mary Lou Weiss seconded. Yes – 3, No – 8, Motioned failed.

Howell explained option 2 deals with the question on how to measure the market participation. After discussing options such as square footage, number of vendors and number of stalls, Southland believes the number of stalls would be the easiest method to accomplish this.

Scott Hudson commented not all markets are setup with a designated stall size. Using the number of stalls as the criteria could become complicated.

Howell commented whether the Committee chooses the criteria based on the number of stalls versus the number of vendors is irrelevant, it is the establishment of a method that is the purpose.

Mary Lou Weiss commented the percentage is not an issue; a market should be 100 percent. The other vendors fall into the jurisdiction of the Health Department. Mary Lou did a survey that included farmers, consumers and vendors, and all but one survey came back promoting non-agricultural vendors. The farmers explicitly said, non-agricultural vendors bring more consumers to the market. We need to be careful not to hurt the farmers in the long run and that it is a possibility.

Pompea Smith commented a market place is the coming together of buyers and sellers. The market reflects the community so in some markets there will be artisans in conjunction with food vendors, others will not. In her market, she has one street that is 100% certified producers, on the second street, there are artisans and food vendors. We are trying to help the community be more sustainable. A lot of these artisans and food vendors are low-income families as well. More people are drawn to the market by these artisans and food vendors and this provides more consumers for the farmers.

Gail Hayden commented that the real issue is defining what is in the 25%, not getting caught up in the actual percentage amount, whether it's 25% or 35%.

Howell Tumlin explained option 3 deals with the question pertaining to the definition of what is meant by "at or near" a certified farmers' market. Southland has offered a definition of near that establishes a zone around a certified farmers' market in which the number of temporary vendors would not exceed 25%. The intent is to establish a zone that the Agricultural

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Commissioner can easily identify and determine that the market is complying with the percentage. Near a certified farmers' market could be defined in numerous ways. Southland proposes "near" be defined as an area 400 yards outside the boundary of the certified farmers' market. Counting only the number of non-agricultural vendors that the market manager is collecting fees from as part of the market's 25% instead of a physical definition of what's near the market might appear to be a simple method but would ultimately be uncontrollable.

Earl McPhail pointed out the Agricultural Commissioners have absolutely no jurisdiction outside the designated market area so the percentage of vendors outside this area is totally irrelevant. He will not send his staff out to do something they are not authorized to do.

Howell explained the way the proposal is structured, the Agricultural Commissioner is not being asked to regulate anything outside of the market area. It just gives the Commissioner the opportunity to not issue a market certificate if it is obvious the market is not composed of 75% certified producers. The intent is to discourage these flea markets from establishing themselves under the guise of a certified farmers' market. This will establish a standard of what a certified farmers' market is, and that the market is truly there to help sustain the certified producers.

Earl McPhail commented this proposed regulation should include the ability of an Agricultural Commissioner to revoke a certificate once it has been issued if it is determined at a later date the market clearly is not complying with the established standards.

Jerry Gonce commented this was also something the Federation thought should be included.

Mary Lou Weiss commented every rule the Program has ever established, someone finds a way to get around it. Mary Lou suggested Howell take Southland's proposal and use it at his markets for a year and report back to the Committee on its effectiveness.

Pompea Smith commented she is still unclear what defines the market boundaries. Earl McPhail explained the market boundaries are established by the market manager and submitted to the Agricultural Commissioner in a map.

Howell Tumlin explained option 4 deals with the question pertaining to the definition of a non-agricultural vendor.

Gail Hayden commented resale should not be allowed in the 25% non-agricultural area.

Howell explained option 6 deals with the question pertaining to markets already established that might be operating outside of these proposed standards. The markets would be given adequate notice to make the necessary adjustments.

Howell will modify the proposal to include non-certified agricultural producers as part of the 75%.

MOTION: Scott Beylik motioned the Committee approve all 6 options of Southland's proposal with the understanding non-certifiable agricultural products will be included as part of the 75% minimum standard. Joel Kiff seconded. Yes – 7, No – 5, Abstained – 1, Motion passed.

d. CFMAC Policies and Procedures – Mary Hillebrecht

Deferred to next meeting.

e. Recommendations – California Federation of CFM's – Jerry Gonce

Jerry Gonce has asked Dan Best (President of the Federation Committee) to come to a future CFMAC meeting to discuss some of the concerns expressed at the last Federation meeting. Jerry has also asked Randii MacNear to come and share concerns pertaining to the CFMAC and it's relationship with the Federation. Mary Lou Weiss serves on the Federation's Committee.

f. AB 1726 – Janice Price

Janice Price reported there has been no legislative activity.

g. SB 934 – Janice Price

Janice Price reported there has been no legislative activity.

h. Appointments – CFMAC Sub-Committees – Jerry Gonce

(1) Data Base

MOTION: Howell Tumlin moved to disband the data base sub-committee. Fred Kosmo seconded. Motion passed unanimously.

(2) Enforcement/Matrix

The Committee agreed to combine the enforcement and matrix sub-committees.

MOTION: Howell Tumlin moved to appoint Scott Hudson as the sub-committee chair. Jim Russell seconded. Motion passed unanimously.

Earl McPhail, Edith Clark, Howell Tumlin, Scott Beylik, and Gail Hayden asked to serve on the sub-committee. Jerri Gonce will contact the absent members to find out if they wish to continue serving.

(3) Finance

MOTION: Howell Tumlin moved to appoint Scott Beylik as the sub-committee chair. Edith Clark seconded. Motion passed unanimously.

Ted Loewen asked to be a member. Harry Brown-Heigel resigned. Jerry Gonce will contact the absent members to find out if they wish to continue serving.

(4) Long Range Planning

MOTION: Greta Dunlap moved to appoint Jane Allen as sub-committee chair. Richard Youngblood seconded. Motion passed unanimously.

Greta Dunlap, Ted Loewen, Howell Tumlin, Gail Hayden and Fred Kosmo asked to be members. Jerry Gonce will contact the absent members to find out if they wish to continue serving.

(5) Market Manager Certification/Standards for Certified Farmers' Markets

MOTION: Scott Beylik moved to appoint Howell Tumlin as sub-committee chair. Edith Clark seconded. Motion passed unanimously.

Greta Dunlap, Howell Tumlin, Mary Lou Weiss, Edith Clark, and Joel Kiff asked to be members. Jerry Gonce will contact the absent members to find out if they wish to continue serving.

(7) Nursery Stock

MOTION: Jim Russell moved to appoint Mary Lou Weiss as sub-committee chair. Edith Clark seconded. Motion passed unanimously.

Scott Hudson, and Jerry Gonce asked to be members. Jerri Gonce will contact the absent members to find out if they wish to continue serving.

(8) Non-Certifiable Ag Products

MOTION: Mary Lou Weiss moved to appoint Jim Russell as sub-committee chair. Edith Clark seconded. Motion passed unanimously.

Howell Tumlin, and Mary Lou Weiss asked to be members.

Jerry Gonce has asked Harry Brown-Heigel to work with each of the sub-committee chairs on a charter for their respective sub-committee.

i. Increased CDFA Staff Costs – Janice Price

At the last committee meeting, Janice Price was asked to provide an approximate cost for an additional staff member. Janice supplied the request in a hand out.

j. CDFA Late Penalty and Interest Fees – Harry Brown-Heigel

No Report.

ITEM 8: MEMBER ROUNDTABLE DISCUSSION – Jerry Gonce

Joel Kiff will prepare a one-page document addressing committee communication issues. This will be mailed out to committee members in the agenda packet and added as an agenda item for discussion at the next meeting.

ITEM 9: NEXT MEETING July 14, 2003 – Sacramento

ITEM 10: NEW AGENDA ITEMS – Jerry Gonce

Issues pertaining to Committee Communication.

Please have any information or requests to Janice Price by June 30.

ITEM 11: ADJOURNMENT

MOTION: Fred Kosmo motioned to adjourn the meeting. Edith Clark seconded. Motion passed.

Respectfully submitted by:

Janice Price, Supervisor